

behalf of the Government on the ground that the answer contained immaterial, irrelevant, and incompetent statements, and failed to raise any issue with respect to the allegation of misbranding set forth in the libel. Motions were also filed on behalf of the Government, requesting that La Rue E. Snyder be directed to file a claim, post security for cause, and make verification of his answer. On September 8, 1947, upon motion of the United States Attorney and with the consent of counsel for La Rue E. Snyder, an order was entered by the court allowing the Government's exceptions to the answer and granting the Government's motions. It was also ordered that if the order of September 8 were not complied with by La Rue E. Snyder, the Government could appear and move for judgment on the pleadings. On October 27, 1947, the court ordered that the answer be stricken from the record and entered a decree providing for the condemnation and destruction of the device and accompanying labeling.

**2393. Misbranding of Spectro-Chrome. U. S. v. 1 Device \* \* \*. (F. D. C. No. 18890. Sample No. 23354-H.)**

**LIBEL FILED:** February 4, 1946, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 4, 1945, by Dinshah Spectro-Chrome Institute, from Newfield, N. J.

**PRODUCT:** 1 *Spectro-Chrome* device at Union, Mo. The construction and appearance of the device was essentially the same as the device involved in notices of judgment on drugs and devices, No. 2098.

The device was accompanied by the following pieces of printed and graphic matter: "Certificate of Benefit Studentship," "Spectro-Chrome General Advice Chart for the Service of Mankind — Free Guidance Request," "Spectro-Chrome Manual for Dinshah Spectro-Chrome," "Favorscope for 1945 for Spectro-Chrome Metry," and "Spectro-Chrome — December 1941 — Scarlet."

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the labeling of the device bore false and misleading curative and therapeutic claims in substantially the same respect as the device reported in notices of judgment on drugs and devices, No. 2098.

**DISPOSITION:** Upon refusal of Marie T. Sager and Joseph Sager of Union, Mo., to permit seizure of the device and its labeling which were in their possession, an order to show cause why such parties should not be held in contempt of court was entered on February 21, 1946. Thereafter, answers were filed on behalf of Marie and Joseph Sager, denying that Marie Sager had refused to receive service of the writ of monition under which seizure of the device and its labeling was directed, or that Joseph Sager had refused to allow such seizure. In addition, the answers alleged that the writ of monition was illegally issued and void. After consideration of the evidence and the arguments of counsel, the court, on or about April 1, 1946, handed down findings of fact and conclusions of law to the effect that Marie and Joseph Sager did disobey and resist and did intend to disobey and resist a lawful writ and process of the court, and that such individuals were therefore guilty of contempt. A fine of \$100 was imposed against each individual, together with a sentence of 10 days in jail. It was provided, however, that execution of the jail sentence should be stayed upon delivery of the device and its labeling to the marshal. On May 6, 1946, following such delivery of the device and labeling, a default decree of condemnation was entered. It was ordered that the device and the labeling be delivered to the Food and Drug Administration for experimental and investigational purposes, and that they be destroyed when no longer needed for such purposes.

**2394. Misbranding of Vapo-Path. U. S. v. Vapo-Path, Inc., and Granville Class. Information dismissed with respect to corporation. Plea of guilty entered with respect to individual; fine of \$500 imposed, which was remitted. (F. D. C. No. 21484. Sample Nos. 3000-H, 42606-H, 48101-H, 53208-H.)**

**INFORMATION FILED:** July 22, 1947, Southern District of Ohio, against Vapo-Path, Inc., Dayton, Ohio, and Granville Class, president-treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about October 29 and November 8, 1945, and February 19 and 21, 1946, from the State of Ohio into the District of Columbia and the States of Kentucky, West Virginia, and Idaho.

**PRODUCT:** Examination showed that the device consisted of cabinets in which the patient's entire body, except his head, was exposed to warm vapors consisting principally of naphthalene, a coal-tar derivative extensively distributed as moth balls, and accessory pieces in which parts of the body such as a foot,

leg, or arm could be so exposed. The device was attached by means of plumbing fixtures to a type of oven "generator" in which a mixture of naphthalene, with small amounts of other volatile substances and some nonvolatile material, was subjected to heat whereby the warm vapors were transmitted to the device.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements in leaflets entitled "Be a Millionaire in Your Home Town" and in booklets entitled "Vapo-Path must be Good," which were shipped with the device, were false and misleading. These statements represented and suggested that the device when used as directed would be efficacious in the cure, mitigation, and treatment of arthritis, diabetes, poor elimination, poor circulation, abscess on the lung, continuous cough, sleeplessness, loss of weight, rheumatism, disease of the stomach and kidneys, bad heart conditions, muscular rheumatism, accumulation of poisons in the system, improper elimination, inflammatory rheumatism, nervousness, stiff joints, melancholia, blood poisoning, swelling of eyes, hands, and knees, infection of the sciatic nerve, acidosis, rash, abscesses, high and low temperatures, decay of the jaw bone and sinus, poison in the system, slow kidney action, acid condition, lazy liver, bloating, hay fever, incurable conditions, hopeless conditions, serious physical conditions, and whatever was wrong; that the device when used as directed would be efficacious to straighten out the difficulties with which the human system may be struggling; that it would supply those elements in which the body may be deficient; that it would attack the basic cause of the vast majority of ailments; that it would prevent serious illness and correct improper conditions; that it would be efficacious to keep one fit, buoyant, and in good health; and that it would supply beneficial mineral fumes. The device when used as directed would not be efficacious for the purposes represented.

**DISPOSITION:** The information against the corporation was dismissed on December 31, 1947, following the filing of a petition in bankruptcy by the corporation on October 22, 1947. In the order of dismissal it was stipulated by the trustee that the machines, oils, minerals, and chemicals used in connection with the machines would not be offered for, or used for, the diagnosis, treatment, or prevention of disease in violation of the law, and that such conditions would be binding on the successor and assigns of the defendant corporation in the event the assets would be sold as a whole at a private sale. On March 16, 1948, a plea of guilty having been entered by Granville Class, the court imposed a fine of \$125 on each of the four counts of the information, which fine was remitted.

#### DRUGS FOR VETERINARY USE\*

**2395. Alleged misbranding of Sunshine Minerals. U. S. v. Charles J. Korinek (Korinek Laboratories). Plea of guilty. Information ordered dismissed.** (F. D. C. No. 12550. Sample Nos. 42690-F, 43068-F, 43069-F.)

**INFORMATION FILED:** September 7, 1944, Northern District of California, against Charles J. Korinek, trading as Korinek Laboratories, South San Francisco, Calif.

**ALLEGED SHIPMENT:** On or about June 26, August 30, and September 15, 1943, from the State of California into the State of Oregon.

**PRODUCT:** Analysis showed that the product consisted essentially of compounds of calcium, iron, magnesium, sodium, potassium, carbonates, phosphates, and sulfates.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements in accompanying circulars entitled "Better Chicks - More Eggs - More Money," "Guarantee the Health and Livability of Day-Old Poults," "Money-Making Dairies Feed Minerals," "Step up Hog Profits with Sunshine Minerals," and "Successful Sheep Men Are All Feeding Minerals," which circulars were shipped prior to the shipment of the article, were false and misleading, since the article would not fulfill the promises of benefit represented and suggested. The statements represented and suggested that the article would cause the production of better chicks and more eggs and enable the user to make more money and make poultry pay; that it would prevent thin egg shells and make for better shell texture and would increase the thickness and firmness of egg shells; that it would promote maximum growth and development; that it would be efficacious

\*See also No. 2373.